

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 20, 2005

IN RE:

PETITION FOR APPROVAL OF TENNESSEE
WASTEWATER SYSTEMS, INC, TO EXPAND
ITS SERVICE AREA TO INCLUDE A PORTION
OF GRAINGER COUNTY, TENNESSEE, KNOWN
AS GRAINGER'S LANDING CONDOMINIUMS

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)
) DOCKET NO.
) 05-00117
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ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Grainger County, Tennessee known as Grainger's Landing Condominiums.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ ("TWS" or "Company") received a Certificate of Public Convenience and Necessity ("CCN") in Docket No 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company's

¹ Tennessee Wastewater Systems, Inc was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No 03-00518

principal office is located in Nashville, Tennessee. TWS filed the *Petition* in this matter on April 28, 2005. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

The Petition

On April 28, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Grainger County, Tennessee known as Grainger's Landing Condominiums. The Company sought authority to provide both residential and commercial service to the area. TWS attached several letters to its *Petition* in support of its request to expand its service area. TWS attached a letter from the developer expressing its desire that TWS provide service to the property. In addition, TWS attached letters from each of the three other potential wastewater service providers stating that none of the potential providers currently serves the areas. The letters also indicate that none of the other potential wastewater service providers intends to extend wastewater service to Grainger's Landing Condominiums.²

² See *Petition* (unnumbered attachments) (April 28, 2005) Letter from Eddie E Holbrook, Jr, Member, BECS, GP (March 30, 2005), Letter from Rick Brewer, Mayor, City of Bean Station, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 8, 2005), Letter from Teresa Perrin, General Manager, Bean Station Utility District to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (April 14, 2005), Letter from Paul Q Merritt, County Mayor, Grainger County, Tennessee, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 4, 2005)

Rate Schedules

The Company also filed with the *Petition* rate schedules listing the Company's commercial sewer rates (with and without food service), a listing of estimated system costs and revenues, a billing summary for the Company's residential customers, a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of Grainger's Landing Condominiums.³ As noted in the billing summary, a \$35.11 residential sewer rate will apply to Grainger's Landing Condominiums.

The monthly commercial rate, without food service, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁴ will have a seventy-three dollar (\$73.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass- Through Costs+ \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

³*Petition*, (unnumbered attachments) (April 28, 2005).

⁴ Off-site means the treatment and disposal are performed by another entity.

Excess water usageSurcharge

1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, with food service, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

Excess water usageSurcharge

1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00) and a returned check fee of twenty dollars (\$20.00).

The July 11, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a) (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference, held on July 11, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney moved to have his Pre-Filed Testimony entered into the record in this matter at the Authority Conference. The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Grainger's Landing Condominiums.⁵ Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not yet received the appropriate final permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Based upon the evidentiary and administrative record as a whole and relying on the legal criteria set forth in Tenn. Code Ann. § 65-4-201(a) (2004), the panel voted unanimously to grant approval of the *Petition* subject to receipt of the appropriate final permit from TDEC evidencing its approval of the Company's application to provide service to Grainger's Landing Condominiums. The panel also ordered that TWS notify the Authority in writing at the time it receives the appropriate final permit from TDEC for Grainger's Landing Condominiums.

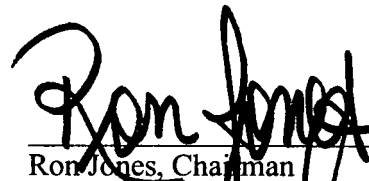
⁵ Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (May 25, 2005)

IT IS THEREFORE ORDERED THAT:


1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Grainger's Landing Condominiums in Grainger County, Tennessee, as shown in the map attached to the *Petition* is approved subject to receipt of the appropriate final permit from the Tennessee Department of Environment and Conservation.

2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order

3 Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received the appropriate final permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Grainger's Landing Condominiums in Grainger County, Tennessee.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director